

4116. Adulteration and misbranding of tomato sauce. U. S. v. 43 Cases of Tomato Sauce. Decree entered, ordering product released under bond. (F. & D. No. 19450. I. S. No. 13412-v. S. No. E-5087.)

On January 2, 1925, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying the seizure and condemnation of 43 cases of tomato sauce, remaining unsold in the original packages at Brooklyn, N. Y., alleging that the article had been shipped by A. Morici & Co., San Francisco, Calif., September 23, 1924, and transported from the State of California into the State of New York, and charging adulteration and misbranding in violation of the food and drugs act. The article was labeled in part: "Naples Style Tomato Sauce Salsa Di Pomodoro Contadina Brand * * * Packed By Hershel Cal. Fruit Prod. Co., San Jose, Cal."

Adulteration of the article was alleged in the libel for the reason that an artificially colored tomato paste or sauce had been substituted wholly or in part for the said article.

Misbranding was alleged for the reason that the statement "Tomato Sauce," borne on the labels, was false and misleading and deceived and misled the purchaser when applied to a tomato paste containing artificial color not declared upon the label.

On June 17, 1925, the Hershel California Fruit Products Co., San Jose, Calif., and Bortolo Bendin, Inc., Brooklyn, N. Y., having appeared as claimants for the property and having admitted the allegations of the libel, a decree was entered, ordering that the product be released to the said claimants upon the execution of a bond in the sum of \$400, conditioned in part that it be relabeled under the supervision of this department.

R. W. DUNLAP, *Acting Secretary of Agriculture.*

4117. Adulteration and misbranding of wheat grey shorts. U. S. v. 237 Sacks of Wheat Grey Shorts. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 20126. I. S. No. 7166-v. S. No. C-4750.)

On June 19, 1925, the United States attorney for the Eastern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying the seizure and condemnation of 237 sacks of wheat grey shorts, remaining in the original unbroken packages at Paris, Tex., alleging that the article had been shipped by the Kansas Flour Mills Co., from Kansas City, Mo., May 8, 1925, and transported from the State of Missouri into the State of Texas, and charging adulteration and misbranding in violation of the food and drugs act. The article was labeled in part: "Wheat Grey Shorts & Screenings Not Exceeding 8% of Screenings * * * The Kansas Flour Mills Company Kansas City, Missouri."

Adulteration of the article was alleged in the libel for the reason that a substance, to wit, brown shorts, had been substituted wholly or in part for the said article.

Misbranding was alleged for the reason that the designation "Wheat Grey Shorts" was false and misleading and deceived and misled the purchaser, and for the further reason that the article was offered for sale under the distinctive name of another article.

On July 22, 1925, the Kansas Flour Mills Co., Kansas City, Mo., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the said claimant upon payment of the costs of the proceedings and the execution of a bond in the sum of \$500, in conformity with section 10 of the act, for proper relabeling in accordance with law.

R. W. DUNLAP, *Acting Secretary of Agriculture.*

4118. Adulteration and misbranding of evaporated apples. U. S. v. 15 Cases of Evaporated Apples. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 19933. I. S. No. 15621-v. S. No. E-5257.)

On March 28, 1925, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying the seizure and condemnation of 15 cases of evaporated apples, remaining in the original unbroken packages at Pittsburgh, Pa., alleging that the article had been